

REMARKS

Claims 1-23 and 27-33 are pending. Claims 24-26 are cancelled by this amendment in order to clear up a numbering error. Claims 27-33 are added in this amendment. Claims 5, 7, 11, 20 and 21 are amended.

Objection to Drawings

The Examiner has objected to the drawings stating that the drawings do not show that “the second portion of the peripheral edge of the bottom panel proximate the first portion includes a raised flange that overlies the outer face of the one side panel when the one side panel is pivoted to the raised position as stated in claims 9, 12 and 22.” The Examiner has also objected to claims 9, 12, 22 and 24 for the same reason. As Applicant indicated in the previous amendment, this feature is disclosed as flange 74 in Figure 2 of the present application. The flange 74 is shown overlying the outer face of the side panel in Figure 1. Therefore, this objection should be withdrawn. If the Examiner still believes that these drawings are insufficient, Applicant requests a clarification of the Examiner’s objection so that Applicant can respond more specifically.

§112 Rejections

The Examiner has rejected claims 7, 12, 13, 22 and 24 as being indefinite. Applicant has amended claims 7, 11, 20 and 21 to correct these minor antecedent basis issues. It is believed that these amendments address all of the Examiner’s concerns regarding definiteness, and Applicant requests that these rejections be withdrawn.

Merely

The Examiner has rejected claims 1-3 and 25 as anticipated by Merey. In Merey, the lever arm extends from a “base portion” that is substantially inward of the lateral edge of the side panel. The lever arm in Merey also extends from the base portion toward the lateral edge. Therefore, claim 1 is not anticipated by Merey because claim 1 recites that the base portion is proximate the lateral edge of the side panel and that the lever arm extends generally away from the lateral edge. As the Examiner acknowledges himself, claim 3 is not anticipated by Merey. (See Office Action, page 4: “Merey discloses the invention except for the inside corner which receives a rib.”) Thus, this rejection should be withdrawn as it applies to claim 3. Further,

Applicant has added new dependent claims 29 and 32-33 to more particularly claim this relationship, which are not shown in Merey.

New dependent claim 30 recites an arcuate leg, which is not found in Merey.

New dependent claim 31 recites that the intermediate portion travels substantially in a plane parallel to the outer face of the first side panel when the latch member is deflected to engage or disengage the latch member. This feature is not found in Merey.

Smyers, Foy and Luburic

The Examiner has rejected claims 11-13, 20-24 and 26 as anticipated by Smyers (U.S. 6,460,717) and Foy (U.S. 4,923,079). The Examiner has rejected claims 11-13 and 20-24 as anticipated by Luburic (U.S. 5,938,059).

The Examiner states that these claims are “clearly anticipated” by Foy, yet the previous Office Action (dated 9/24/02) admitted that Foy does not disclose the claimed “abutting surface.”

Applicant has amended claim 11 to include the terms of claim 25, which has been cancelled, in order to clarify the term “recessed shelf.” Smyers, Foy and Luburic do not disclose a recessed shelf that is below a pivot axis of the wall. Therefore, claims 11-13 are properly allowable. For the reasons stated in Applicant’s previous Amendment, Applicant submits that claims 12 and 13 are independently patentable over Foy and Luburic.

Claim 20 recites a stop member having a surface that engages the inwardly-facing abutting surface of the side panel when the side panel is pivoted to the raised position, where the abutting surface is proximate the basal edge of the side panel. The Examiner has not indicated where he finds the stop member in the cited references. The stationary member 22 in Smyers does not abut a surface proximate the basal edge of the side panel. Foy does not disclose the abutting surface, as the previous rejection admitted. Luburic does not disclose a stop member.

Whatever the Examiner is calling the “stop members” in Smyers, Luburic and Foy, they do not include “cantilevered portions” with the complementary surface defined on a free end of the cantilevered portion, as required by claim 21. Therefore, claim 21 is independently patentable.

Merey in view of Foy ‘079

The Examiner has rejected claims 3 and 4 as obvious over Merey in view of Foy ‘079. The Examiner admits that Merey does not disclose the rib as claimed, but states that “it would have been obvious to add the rib at a location such that the rib is received on the inside corner of

an adjacent panel in order to provide a rib-corner structure which adds stability...". (Office Action, page 4.) However, neither Merey nor Foy suggest adding a rib-corner structure in order to add stability. Therefore, there is no motivation for making the proposed modification to Merey. Additionally, referring to Figure 6 of Merey, a rib could not be added to the latch on the first side panel to be received on the inside corner of the second side panel 20 without the rib interfering with the release mechanism (flange 80). At the same time, the release mechanism (flange 80) would prevent the rib from contacting the corner, so there would be no gain in stability. Therefore, it would not be obvious to add the rib to Merey and claims 3 and 4 are not obvious.

Merey in view of Yamauchi

The Examiner has rejected claim 7 as obvious over Merey in view of Yamauchi (EP 1114779-A2). Claim 7 specifies at least one locating member projecting outwardly from the outer face of the first side panel and that the flange includes at least one socket adapted to receive at least one locating member. If such a locating member were added to what the Examiner calls the outer face of the first side panel 16 in Merey, the side panels 16-20 would not be able to be assembled or disassembled. In Merey, the first side panel 16 is first pivoted to the upright position. The second side panel 20 is then pivoted to the upright position, with the catch 82 deflecting inwardly until it passes edge 84a, where it is retained. Thus, a locating member projecting outwardly from the outer face of the first side panel 16 would not be able to be inserted into a socket on the flange of the second panel. Therefore, it would not be obvious to make this modification and claim 7 is independently patentable.

Merey and Smyers

The Examiner has rejected claims 8-10 as obvious over Merey in view of Smyers. Smyers is a prior art reference to the present application under Section 102(e). Pursuant to Section 103(c), the subject matter in the Smyers patent and the claimed invention were, at the time the invention was made, owned by the same entity and were subject to an obligation of assignment to the same entity. This is evidenced by the assignments of record of the Smyers patent and the present application to the current assignee. Therefore, pursuant to 103(c), this obviousness rejection should be withdrawn.

Smyers and Yamauchi

The Examiner has rejected claim 14 as unpatentable over Smyers in view of Yamauchi. For the reasons stated above, this rejection should be withdrawn under Section 103(c).

Smyers and Yamauchi and Merey

The Examiner has rejected claims 15-17 as being obvious over Smyers in view of Yamauchi and further in view of Merey. For the reasons stated above, this rejection should be withdrawn pursuant to Section 103(c).

Allowed Claims

Per the Examiner's suggestion, and in order to expedite prosecution of this application, the Examiner has rewritten claim 5 in independent form. Thus claim 5 and its dependent claims should be in a condition for allowance.

Closing

Please charge \$174 to Deposit Account No. 50-1984 for five additional claims in excess of twenty and one additional independent claim in excess of three. No extension of time fee should be necessary due to the PTO being closed on September 18-19, 2003. If any additional fees or extensions are due, please charge all fees to Deposit Account No. 50-1984.

Respectfully submitted,



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